

## REMARKS

The present amendment is submitted in response to the Office Action dated September 17, 2004, which set a three-month period for response, making this amendment due by December 17, 2004.

Claims 1 and 5 are pending in this application.

In the Office Action, claims 1 and 2 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,897,090 to Smith et al.

The Applicant notes with appreciation the allowance of claims 3 and 4, if rewritten in independent form to include the limitations of the base claim and any intervening claims.

In this amendment, claim 1 has been amended to add the features of allowable claims 3 and 4, as well as intervening claim 2. Claims 2-4, therefore, have been canceled.

In addition, new claim 5 has been added, which defines in combination with the features of claim 1 that "each holding element has at least two vertically offset gripping points, and wherein, by means of a spring element, each holding element is fixed, such that each holding element and a spring element form a bistable, tiltable gripping element".

The features of new claim 5 are disclosed in the specification on page 4, first paragraph. The "bistable system" is explained on in the paragraph bridging pages 4-5 of the specification. It is respectfully submitted that the cited patent to Smith et al is not a proper reference under either **MPEP section 2131 or section**

**2143.03** to support a rejection of claim 5 under Section 102, since the reference does not teach or suggest every element of new claim 5. Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. ***Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.***, 221 USPQ 481, 485 (Fed. Cir. 1984).

Therefore, the Applicant respectfully submits that amended claim 1, along with new claim 5, are both patentable over the Smith reference.

In light of the foregoing amendments and arguments in support of patentability, the Applicant respectfully submits that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



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